

110TH CONGRESS
1ST SESSION

S. 1898

To amend the Family and Medical Leave Act of 1993 to expand family and medical leave for spouses, sons, daughters, and parents of servicemembers with combat-related injuries.

IN THE SENATE OF THE UNITED STATES

JULY 30, 2007

Mr. REID (for Mrs. CLINTON (for herself, Mrs. DOLE, Ms. MIKULSKI, Mr. GRAHAM, Mr. KENNEDY, and Mr. BROWN)) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Family and Medical Leave Act of 1993 to expand family and medical leave for spouses, sons, daughters, and parents of servicemembers with combat-related injuries.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Military Family and
5 Medical Leave Act”.

1 **SEC. 2. MILITARY FAMILY AND MEDICAL LEAVE.**

2 (a) DEFINITIONS.—Section 101 of the Family and
3 Medical Leave Act of 1993 (29 U.S.C. 2611) is amended
4 by adding at the end the following:

5 “(14) ACTIVE DUTY.—The term ‘active duty’
6 means duty under a call or order to active duty
7 under a provision of law referred to in section
8 101(a)(13)(B) of title 10, United States Code.

9 “(15) COVERED SERVICEMEMBER.—The term
10 ‘covered servicemember’ means a member of the
11 Armed Forces, including a member of the National
12 Guard or a Reserve, who is undergoing medical
13 treatment, recuperation, or therapy, or is otherwise
14 in medical hold or medical holdover status, for a se-
15 rious injury or illness.

16 “(16) MEDICAL HOLD OR MEDICAL HOLDOVER
17 STATUS.—The term ‘medical hold or medical hold-
18 over status’ means—

19 “(A) the status of a member of the Armed
20 Forces, including a member of the National
21 Guard or a Reserve, assigned or attached to a
22 military hospital for medical care; and

23 “(B) the status of a member of a reserve
24 component of the Armed Forces who is sepa-
25 rated, whether pre-deployment or post-deploy-
26 ment, from the member’s unit while in need of

1 health care based on a medical condition identi-
2 fied while the member is on active duty in the
3 Armed Forces.

4 “(17) SERIOUS INJURY OR ILLNESS.—The term
5 ‘serious injury or illness’, in the case of a member
6 of the Armed Forces, means an injury or illness in-
7 curred by the member in line of duty on active duty
8 in the Armed Forces that may render the member
9 medically unfit to perform the duties of the mem-
10 ber’s office, grade, rank, or rating.”.

11 (b) MILITARY FAMILY AND MEDICAL LEAVE.—

12 (1) ENTITLEMENT TO LEAVE.—Section 102(a)
13 of such Act (29 U.S.C. 2612(a)) is amended by add-
14 ing at the end the following:

15 “(3) MILITARY FAMILY AND MEDICAL LEAVE.—
16 Subject to section 103, an eligible employee shall be
17 entitled to a total of 26 workweeks of leave during
18 a 12-month period to care for a covered
19 servicemember who is the spouse, son, daughter, or
20 parent of the employee. The leave described in this
21 paragraph shall only be available during a single 12-
22 month period.

23 “(4) COMBINED LEAVE TOTAL.—During the
24 single 12-month period described in paragraph (3),
25 an eligible employee shall be entitled to a combined

total of 26 workweeks of leave under paragraphs (1) and (3). Nothing in this paragraph shall be construed to limit the availability of leave under paragraph (1) during any other 12-month period.”.

(2) SCHEDULE.—Section 102(b) of such Act (29 U.S.C. 2612(b)) is amended—

(A) in paragraph (1), in the second sentence—

(i) by striking “section 103(b)(5)” and inserting “subsection (b)(5) or (f) (as appropriate) of section 103”; and

(ii) by inserting “or under subsection (a)(3)” after “subsection (a)(1)”; and

(B) in paragraph (2), by inserting “or under subsection (a)(3)” after “subsection (a)(1)”.

(3) SUBSTITUTION OF PAID LEAVE.—Section 102(d) of such Act (29 U.S.C. 2612(d)) is amended—

(A) in paragraph (1)—

(i) by inserting “(or 26 workweeks in the case of leave provided under subsection (a)(3))” after “12 workweeks” the first place it appears; and

1 (ii) by inserting “(or 26 workweeks,
2 as appropriate)” after “12 workweeks” the
3 second place it appears; and

4 (B) in paragraph (2)—

5 (i) in subparagraph (A), by adding at
6 the end the following: “An eligible em-
7 ployee may elect, or an employer may re-
8 quire the employee, to substitute any of
9 the accrued paid vacation leave, personal
10 leave, or family leave of the employee for
11 leave provided under subsection (a)(3) for
12 any part of the 26-week period of such
13 leave under such subsection.”; and

14 (ii) in subparagraph (B), by adding at
15 the end the following: “An eligible em-
16 ployee may elect, or an employer may re-
17 quire the employee, to substitute any of
18 the accrued paid vacation leave, personal
19 leave, or medical or sick leave of the em-
20 ployee for leave provided under subsection
21 (a)(3) for any part of the 26-week period
22 of such leave under such subsection.”.

23 (4) NOTICE.—Section 102(e)(2) of such Act
24 (29 U.S.C. 2612(e)(2)) is amended by inserting “or
25 under subsection (a)(3)” after “subsection (a)(1)”.

1 (5) SPOUSES EMPLOYED BY SAME EM-
 2 PLOYER.—Section 102(f) of such Act (29 U.S.C.
 3 2612(f)) is amended—

4 (A) by redesignating paragraphs (1) and
 5 (2) as subparagraphs (A) and (B), and aligning
 6 the margins of the subparagraphs with the
 7 margins of section 102(e)(2)(A);

8 (B) by striking “In any” and inserting the
 9 following:

10 “(1) IN GENERAL.—In any”; and

11 (C) by adding at the end the following:

12 “(2) MILITARY FAMILY AND MEDICAL LEAVE.—

13 “(A) IN GENERAL.—The aggregate num-
 14 ber of workweeks of leave to which both that
 15 husband and wife may be entitled under sub-
 16 section (a) may be limited to 26 workweeks
 17 during the single 12-month period described in
 18 subsection (a)(3) if the leave is—

19 “(i) leave under subsection (a)(3); or

20 “(ii) a combination of leave under
 21 subsection (a)(3) and leave described in
 22 paragraph (1).

23 “(B) BOTH LIMITATIONS APPLICABLE.—If
 24 the leave taken by the husband and wife in-
 25 cludes leave described in paragraph (1), the

1 limitation in paragraph (1) shall apply to the
2 leave described in paragraph (1).”.

3 (c) CERTIFICATION.—Section 103 of such Act (29
4 U.S.C. 2613) is amended by adding at the end the fol-
5 lowing:

6 “(f) CERTIFICATION FOR MILITARY FAMILY AND
7 MEDICAL LEAVE.—An employer may require that a re-
8 quest for leave under section 102(a)(3) be supported by
9 a certification issued at such time and in such manner
10 as the Secretary may by regulation prescribe.”.

11 (d) FAILURE TO RETURN.—Section 104(c) of such
12 Act (29 U.S.C. 2614(c)) is amended—

13 (1) in paragraph (2)(B)(i), by inserting “or
14 under section 102(a)(3)” before the semicolon; and

15 (2) in paragraph (3)(A)—

16 (A) in clause (i), by striking “or” at the
17 end;

18 (B) in clause (ii), by striking the period
19 and inserting “; or”; and

20 (C) by adding at the end the following:

21 “(iii) a certification issued by the
22 health care provider of the son, daughter,
23 spouse, or parent of the employee, as ap-
24 propriate, in the case of an employee un-

1 able to return to work because of a condi-
2 tion specified in section 102(a)(3).”.

3 (e) ENFORCEMENT.—Section 107 of such Act (29
4 U.S.C. 2617) is amended, in subsection (a)(1)(A)(i)(II),
5 by inserting “(or 26 weeks, in a case involving leave under
6 section 102(a)(3))” after “12 weeks”.

7 (f) INSTRUCTIONAL EMPLOYEES.—Section 108 of
8 such Act (29 U.S.C. 2618) is amended, in subsections
9 (c)(1), (d)(2), and (d)(3), by inserting “or under section
10 102(a)(3)” after “section 102(a)(1)”.

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